

1 **Kimmel & Silverman, P.C.**  
2 **1930 East Marlton Pike, Suite Q29**  
3 **Cherry Hill, New Jersey 08003**  
4 **Telephone: 856-429-8334**  
5 **Attorney of Record: Amy Bennecoff (AB0891)**  
6 **Attorney for Plaintiff**

7 **IN THE UNITED STATES DISTRICT COURT**  
8 **FOR THE DISTRICT OF NEW JERSEY**

9 **JAMES KLAUSNER,**

10 Plaintiff,

11 v.

12 **FIRST CREDIT FINANCIAL, INC.**

13 Defendant

)  
)  
)  
)  
) **CIVIL ACTION NO.**

)  
) **COMPLAINT AND DEMAND FOR**  
) **JURY TRIAL**

)  
) **(Unlawful Debt Collection Practices)**

14  
15 **COMPLAINT**

16 NOW COMES the Plaintiff, James Klausner, and his attorneys, Kimmel & Silverman,  
17 P.C., and for his Complaint against the Defendant, First Credit Financial, Inc.

18 Plaintiff alleges and states as follows:

19  
20 **PRELIMINARY STATEMENT**

21 1. This is an action for damages brought by an individual consumer for Defendants'  
22 violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter  
23 "FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive, and unfair  
24 practices.  
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1           9. In particular, the FDCPA broadly enumerates several practices considered  
2 contrary to its stated purpose and forbids debt collectors from taking such action. The  
3 substantive heart of the FDCPA lies in three broad prohibitions. First, a “debt collector may  
4 not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any  
5 person in connection with the collection of a debt.” 15 U.S.C. § 1692(d). Second, a “debt  
6 collector may not use any false, deceptive, or misleading representation or means in connection  
7 with the collection of any debt.” 15 U.S.C. § 1692(e). And third, a “debt collector may not use  
8 unfair or unconscionable means to collect or attempt to collect any debt.” 15 U.S.C. § 1692(f).  
9 Simply, designed to protect consumers from unscrupulous collectors, whether or not there  
10 exists a valid debt, the FDCPA broadly prohibits unfair or unconscionable collection methods,  
11 conduct which harasses, oppresses or abuses any debtor, and any false, deceptive or misleading  
12 statements, in connection with the collection of a debt.  
13

14  
15           10. In enacting the FDCPA, the United States Congress found that “[t]here is  
16 abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by  
17 many debt collectors,” which “contribute to the number of personal bankruptcies, to marital  
18 instability, to the loss of jobs, and to invasions of individual privacy.” 15 U.S.C. § 1692(a).  
19 Congress additionally found existing laws and procedures for redressing debt collection injuries  
20 to be inadequate to protect consumers. 15 U.S.C. § 1692(b).  
21  
22

23           11. Congress enacted the FDCPA to regulate the collection of consumer debts by debt  
24 collectors. The express purposes of the FDCPA are to “eliminate abusive debt collection  
25 practices by debt collectors, to insure that debt collectors who refrain from using abusive debt  
26 collection practices are not competitively disadvantaged, and to promote consistent State action  
27 to protect consumers against debt collection abuses.” 15 U.S.C. § 1692(e).  
28

**FACTUAL ALLEGATIONS**

12. Plaintiff has received collection communication from Defendant at least through November 29, 2010.

13. Defendant constantly and continuously places collection calls to Plaintiff seeking to speak with a person named "Jesse Carlidge," whom Plaintiff does not know. See voicemail messages attached as Exhibit "A".

14. Defendant places collection calls to Plaintiff from telephone number 800-297-6704.

15. Defendant places multiple collection calls to Plaintiff daily sometimes calling up to three times in a single day. See call log attached as Exhibit "B".

16. Defendant placed two collection calls to Plaintiff on October 10, 2010 See call log attached as Exhibit "B".

17. Defendant placed three collection calls to Plaintiff on October 13, 2010 See call log attached as Exhibit "B".

18. Defendant placed three collection calls to Plaintiff on October 15, 2010 See call log attached as Exhibit "B".

19. Plaintiff has informed Defendant on numerous occasions that Plaintiff is not the consumer Defendant is attempting to collect from, that Defendant has the wrong telephone number and to stop calling.

20. Despite this, Defendant continues to place telephone calls to Plaintiff.

21. The repetitive calls to Plaintiff were disturbing, harassing, and an invasion of privacy.

1           22. Defendant failed to investigate or verify contact information prior to and after  
2 calling Plaintiff.

3           23. Defendant failed to update its records to avoid further harassment of Plaintiff.  
4

5                                   **COUNT I:**  
6                                   **VIOLATION OFF THE**  
7                                   **FAIR DEBT COLLECTION PRACTICES ACT**

8           24. Plaintiff reincorporates by reference all of the preceding paragraphs.

9           25. Defendant's conduct violated the FDCPA in multiple ways, including but not  
10 limited to:

- 11           a. Defendant violated §1692 generally
- 12           b. Defendant violated § 1692b(2) of the FDCPA by informing Plaintiff that  
13 Jesse Carlidge owed a debt;
- 14           c. Defendant violated § 1692b(3) of the FDCPA by calling Plaintiff more  
15 than once in connection for the collection of a debt for another  
16 individual;
- 17           d. Defendant violated § 1692c(b) of the FDCPA by communicating with  
18 Plaintiff about a debt allegedly owed by Jesse Carlidge;
- 19           e. Defendant violated §1692d of the FDCPA by engaging in conduct the  
20 natural consequence of which is to harass, oppress, or abuse the Plaintiff  
21 in connection with the collection of a debt.
- 22           f. Defendant violated §1692d(5) of the FDCPA by causing a telephone to  
23 ring repeatedly and continuously with the intent to annoy, abuse and  
24 harass Plaintiff.  
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1 g. Defendant violated § 1692e of the FDCPA by using false, deceptive, or  
2 misleading representations or means in connection with the collection of  
3 a debt;

4  
5 h. Defendant violated § 1692e(10) by using a deceptive means in an attempt  
6 to collect a debt by continuing to contact Plaintiff even though  
7 Defendant knows that Plaintiff is not the consumer Defendant is seeking  
8 to collect from.

9  
10 i. Defendant violated § 1692f of the FDCPA by using unfair and  
11 unconscionable means with Plaintiff to collect or attempt to collect a  
12 debt;

13 j. Defendant acted in an otherwise deceptive, unfair and unconscionable  
14 manner and failing to comply with the FDCPA.

15  
16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff respectfully prays that judgment be entered against the  
18 Defendant for the following:

- 19 A. Declaratory judgment that Defendant's conduct violated the FDCPA;  
20 B. Actual damages;  
21 C. Statutory damages;  
22 D. Costs and reasonable attorney's fees; and,  
23 E. For such other and further relief as may be just and proper.  
24

25 **DEMAND FOR JURY TRIAL**

26 PLEASE TAKE NOTICE that Plaintiff, JAMES KLAUSNER, demands a jury trial in  
27 this case.  
28

**CERTIFICATION PURSUANT TO L.CIV.R.11.2**

I hereby certify pursuant to Local Civil Rule 11.2 that this matter in controversy is not subject to any other action pending in any court, arbitration or administrative proceeding.

RESPECTFULLY SUBMITTED,

Date: 3-7-11

/s/ Amy L. Bennecoff  
Amy L. Bennecoff  
Attorney ID # AB 0891  
Kimmel & Silverman, P.C  
1930 E. Marlton Pike, Suite Q29  
Cherry Hill, New Jersey 08003  
Phone: (856) 429-8334  
Facsimile (856) 216-7344  
Email: [abennecoff@creditlaw.com](mailto:abennecoff@creditlaw.com)

## **EXHIBIT A**



Audio file submitted to Clerk of Courts on Tuesday,  
March 8, 2011.